IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

APPEAL FROM ORDER No 466 of 1999

with

CIVIL APPLICATION No 10531 of 1999

For Approval and Signature:

HON'BLE MR.JUSTICE K.S.JHAVERI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

PRAKASH RATILAL BHAIDASWALA (BHAIDASNA)

Versus

RAJESH MANSUKHLAL KHADAWALA

Appearance:

1. Appeal from Order No. 466 of 1999

MR AS VAKIL for Appellant No.

MR KK SHAH for Respondent No. 1-2

CORAM : HON'BLE MR.JUSTICE K.S.JHAVERI

Date of decision: 17/01/2005

ORAL JUDGEMENT

1. The appellant has preferred this Appeal from Order against the judgment and order dated 31/08/1999 passed by the learned 3rd Joint Civil Judge (S.D.), Surat below application Exh.5 in Special Civil Suit No.186 of 1998 by which the trial Court, pending the hearing and final disposal of the suit, had restrained the defendant from inducting third party in Bungalow No.18 of Shri Ganesh Krupa Society, Athwalines, Surat, from preventing the plaintiff from using and occupying the suit premises and from making any act which may result in restricting the rights of the plaintiff in the suit premises.

2. This Court (Coram : A.R.Dave, J.) on 17/09/1999 had passed the following order in Civil Application No.10531 of 1999;

> "Notice returnable on 01/10/1999. By an interim order, it is directed that possession of the applicants with regard to second and third floor of the suit premises shall not be disturbed. During the pendency of the Appeal, first floor shall not be used by either of the parties."

3. I have heard learned counsel for the parties and have perused the relevant documents on record. In my opinion, ends of justice would be met if the trial Court is directed to expedite the hearing of the said suit and during the pendency of the suit the parties should abide by the directions issued in the aforesaid order dated 17/09/1999.

4. Therefore, without entering into the merits of the matter, the trial Court is directed to expedite the hearing and disposal of Special Civil Suit No.186 of 1999 pending before the Court of the learned 3rd Joint Civil Judge (S.D.), Surat as expeditiously as possible and preferably within a period of one year from the date of receipt of writ of this order. During the pendency of the said suit, parties are directed to abide by the directions issued by this Court by order dated 17/09/1999 passed in the aforesaid Civil Application. It is made clear that this Court has not disturbed the order dated 17/09/1999 by which the order of the trial Court is modified, in view of the fact that any observation on the merits of the case may damage the case of either side. It is hoped that parties will cooperate with the proceedings before the trial Court.

5. With the above observations and directions, the Appeal from Order stands disposed of.

(K. S. Jhaveri, J.)

pravin/

CIVIL APPLICATION No 10531 of 1999

In view of the order passed in the Appeal from Order no orders are necessary in this Civil Application. It stands disposed of accordingly.

(K. S. Jhaveri, J.)

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